STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF:

AHMAD MOSSAVI, M.D.

TO PRACTICE MEDICINE AND SURGERY IN THE STATE OF NEW JERSEY

ORDER ADOPTING FINDINGS OF FACT AND CONCLUSIONS OF LAW WITHIN INITIAL DECISION AND MODIFYING PENALTY

This matter was returned to the New Jersey State Board of Medical Examiners (the "Board") following the entry of an Initial Decision by A.L.J. Stein on November 16, 2010. The Complaint in this matter had alleged in one count, inter alia, that respondent engaged in acts of falsification of documents, dishonesty and professional misconduct in May of 2006, when he altered the date of a privilege letter already in his possession and faxed it to Aetna to support his claim that his University Hospital privileges were in good standing in order to remain a member of Aetna's network. The Complaint also alleged that respondent's hospital privileges had been terminated for inactivity effective March 31st of 2006. The Complaint went on to allege that although respondent later testified before a Committee of the Board in August of 2007 that he had the authorization of the signer of the privilege letter, Ms. Acavedo-Hodovance, to prepare the altered letter, she had not worked at University Hospital, nor had contact with respondent, since 2003.

Following hearing proceedings at the Office of Administrative Law, and within his decision, A.L.J. Stein concluded that respondent engaged in dishonesty, deception, fraud or misrepresentation in that he knowingly and without authority altered a letter from a hospital for the purpose of giving the impression that he had current hospital privileges so that he could remain in the Aetna Health Insurance network. The A.L.J. further found that respondent was aware that his privileges were terminated at the time he altered the hospital privilege letter and forwarded it to Aetna.

Based on said findings, A.L.J. Stein recommended that the Board enter an Order suspending respondent's license for a period of three months, followed by a twelve-month period of probation. A.L.J. Stein also recommended that the Board impose a civil penalty in the amount of $5,000 and assess costs of the investigation, court reporter fees, administrative hearing, expert and transcript costs against respondent.

Following the entry of A.L.J Stein's decision, the parties were advised that written exceptions to the Initial Decision were to be filed and served. Following a request by the Attorney General for a brief extension of time for submission, the parties agreed that exceptions would be filed no later than December 24, 2010. The Attorney General submitted limited exceptions on December 23, 2010 urging that the Board adopt all findings of fact and conclusions of

law within the Initial Decision, but reject A.L.J. Stein's penalty recommendation, and requested that the Board order a longer suspension of respondent's license. Respondent's counsel John Orlovsky, Esq. filed exceptions dated December 23, 2010 suggesting that A.L.J. Stein erred when he concluded that respondent engaged in dishonesty. Mr. Orlovsky urged the Board to reject the A.L.J.'s sanction recommendation that respondent's license be suspended as too stringent, and urged that respondent be allowed to continue to practice medicine.[1] Deputy Attorney General William Lim submitted a response to Respondent's exceptions on January 3, 2011.[2]

The matter was scheduled for consideration at the Board meeting

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[1] The specific exceptions raised by respondent were the following:

1. Respondent was not aware his privileges at UNDNJ were terminated, and, in fact, they were not terminated as a matter of law.
2. While respondent did knowingly alter a letter from UMDNJ, he did so while still having hospital privileges at the time of the alteration of the letter and with no intentions to deceive Aetna or anyone else.
3. Respondent's actions did not violate N.J.S.A. 45:1-21(b) as an allegation of dishonesty, deception, or misrepresentation requires a showing of scienter.
4. Judge Stein's disposition is too stringent as compared to those penalties articulated under similar circumstances by the Board.

[2] The specific additional Points raised in response were:
1.The propriety of the termination of respondent's hospital privileges is not relevant before the board; and
2.Respondent's admitted alteration of a letter regarding his hospital privileges provides sufficient proof of scienter for fraud.

of January 12, 2011, however the meeting was adjourned due to inclement weather and rescheduled to be heard at the next meeting of February 9, 2011. Respondent then requested an adjournment due to travel plans, which was granted on January 20, 2011, conditioned upon respondent's agreement to have the matter scheduled for the March 9, 2011 Board meeting. Nonetheless, respondent again requested an adjournment on February 28, 2011, for the first time raising travel plans. Respondent's request was denied, and he was informed by letter of March 1, 2011 that he could appear through counsel, in person or both on March 9, 2011.

At the time of hearing, respondent was represented by John Orlovsky, Esq., but did not appear himself. Deputy Attorney General William Lim appeared on behalf of the State. Both counsel were afforded an opportunity to present oral argument on the exceptions. A hearing at which respondent was afforded an opportunity to present written and testimonial evidence in mitigation of penalty was also held before the Board on March 9, 2011, immediately following the Board's determination to adopt the Findings of Fact and Conclusions of Law of the ALJ, as discussed below.

DETERMINATION TO ADOPT FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon review of the Initial Decision, record, and arguments of counsel in this matter, we conclude that cause exists to adopt in their entirety the findings of fact and conclusions of law made by the ALJ in his Initial Decision. Respondent acknowledged that he

altered the hospital privilege letter, and faxed it to Aetna; however he asserts he was unaware his privileges had been terminated, and claims that he had the permission of an official at UMDNJ, Ms. Acavedo-Hodavance, to change the date. The State asserts that respondent altered the hospital document without authority.

Simply put, the findings of fact with regard to the allegations of knowingly and without authority altering the privilege letter in the complaint are findings which are fundamentally underpinned by and dependent upon credibility determinations by the ALJ. The testimony offered by Ms. Acavedo-Hodavance and by Dr. Mossavi (via transcript of his appearance at a Preliminary Evaluation Committee of the Board) offer very different accounts of the events that occurred. It cannot be the case that both are being truthful. ALJ Stein addresses the credibility issues and explains why he found Ms. Acavedo-Hodavance to be credible while respondent was not credible. Having directly witnessed the testimony offered by Ms. Acavedo-Hodavance the ALJ described it as candid and "forthright." She "is no longer employed by UMDNJ and has no stake in the outcome," and was not employed by the hospital on May 30, 2006, the date of the conversation with her as claimed by respondent. The ALJ found her testimony "credible and believable" (I.D. at p.6). In contrast, the ALJ found respondent lacked credibility in his assertion that Ms. Acavedo-Hodavance gave him permission to change the date. As stated by the ALJ:

> ...This appears to be in contradiction of another statement by the respondent in which he claims she told him that he has to go through a legal process. Based on the credible testimony of Ms. Acavedo-Hodovance, as well as the uncontroverted fact that she did not work for the hospital at the time, and had not done so for three years, I do not find the testimony of the respondent to be credible. He obviously knew the name Ms. Acavedo-Hodovance from the previous privilege letter.
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> Therefore, I **Find** that the respondent knowingly and without authority altered a letter from UMDNJ for the purpose of giving the impression that he still had hospital privileges so that he could stay in the Aetna Health Insurance Network [I.D. at p.6].

After noting that respondent acknowledged in his testimony (P-5) that an April 2006 letter notification of expiration of his privileges was properly addressed to his address of record, and that respondent received a letter dated June 2, 2006 at the same address (I.D. at 5), the ALJ next addressed respondent's assertion that he was unaware that his privileges were terminated and that he did not receive the April 3, 2006 letter (P-6).

> "Since it has already been determined that the respondent's previous statement was not credible, this assertion cannot be deemed credible without further substantiation. UMDNJ sent the expiration of privileges letter to respondent's address. No other evidence has been provided from respondent to substantiate the claim". [I.D. at p. 6].

The ALJ then found respondent was aware that his privileges were terminated, based upon the issues regarding credibility of respondent, the April 3, 2006 letter being sent to the respondent at the same address as one he admitted receiving in June 2006 and the fact that the respondent altered the letter to Aetna to give the

impression that he had hospital privileges [I.D. at p.6].

Having reviewed the record ourselves, we find his explanation and reasoning persuasive, and reach the very same conclusions as did the ALJ. Indeed, we also agree with him that the respondent cannot alter a hospital record without authority even if he believed he had privileges, was not aware of the termination, or thought the termination was improper. Knowing alteration of a hospital privilege document without authority is dishonest and deceptive; and sufficient to support the conclusions reached by the ALJ, which we adopt in their entirety.[3]

PENALTY DISCUSSION

Upon deciding to adopt the Findings of fact and Conclusions of Law of ALJ Stein, we proceeded to hold a hearing on the question of sanctions to be assessed. We then considered both the oral and written arguments of counsel on the recommended penalty. No mitigation witnesses or documents were presented on Dr. Mossavi's behalf.

Both Deputy Attorney General Lim and Mr. Orlovsky made arguments upon the appropriate quantum of penalty to be assessed.

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[3]We thus also reject respondent's exceptions as we adopt the ALJ's finding that respondent was aware of his termination, but also because we find his admitted alteration of a letter regarding his hospital privileges, coupled with the ALJ's finding that the alteration was without authority, provides more than sufficient proof of scienter for a finding of dishonesty, deception, misrepresentation and for fraud in violation of N.J.S.A. 45:1-21(h).

The Attorney General urged that the Board find A.L.J. Stein's recommendation of a 3 month suspension of license to be inadequate given the gravity of the findings made.

Mr. Orlovsky argued that the Board should modify and reduce the recommendation of A.L.J. Stein for a 3 month suspension of license, asserting that a "private or public" reprimand was appropriate to the wrongful conduct of respondent, comparing it to a matter involving a "realtor" - not a licensee of this Board-who received a monetary penalty and a reprimand for a misrepresentation on continuing education credits on a license renewal, and a physician who used outmoded equipment who received a 6 month license suspension. Respondent's Letter Brief, p.19.

We have considered the arguments made by counsel and conclude on balance that cause exists to modify A.L.J. Stein's recommendation for a 3 month active period of suspension, 12 months of probation and a $5,000 penalty in this case. Not only was respondent found to have knowingly and without authority altered a letter from UMDNJ changing the date for the purpose of giving the impression he still had hospital privileges - essentially submitting a forged document to an insurance company - so he could remain in the Aetna Health Insurance network, he was also found to have been aware his hospital privileges were terminated at the time. He compounded these misdeeds in sworn testimony before an investigative committee of the Board by claiming specifically that he spoke on the phone to Maritza

Acavedo-Hodovance at the medical staff office on May 30, 2006, who gave him permission to change the date of the letter. Respondent maintained that position throughout the OAL hearing in this matter, despite the testimony of Ms. Acavedo-Hodovance that she did not work at the medical staff office or have any contact with the physicians - including respondent-for three years prior to the conversation claimed by respondent. Following findings by the ALJ that respondent's statements were not credible, his counsel belatedly claimed in representations to the Board at the March 2011 consideration of the Initial Decision, that he must have spoken to someone else at the medical staff office. This claim too is belied by respondent's previous testimony to the Board in which he claimed to have spoken directly to Maritza Acavedo-Hodovance (P-5 at p. 29 L.4-5) and when told the same day by a representative at Aetna that nobody by that name worked at the University, he testified that he stated

> "....I just spoke to this person. I spoke myself, not my secretary, because I just - I wanted to just be cooperative with Aetna. And I want to make sure that I don't lose a privilege with Aetna. I have a lot of patient [sic] with Aetna" (P-5 at p.30 L. 18-23)

Simply put, we are of the unanimous opinion that respondent committed a series of fundamentally dishonest acts by altering a hospital privilege document, then setting out on a course of conduct compounding the initial dishonesty, never taking responsibility for his misdeeds - always seeking to deflect blame on others. We are

concerned that the lack of contrition of this physician for the acts he committed to benefit himself financially by remaining on an insurance panel - may extend to other areas. Physicians are presented with situations daily where their fundamental honesty must be trusted. This record fully supports entry of an Order suspending respondent's license for a longer active period and the imposition of a larger monetary penalty.

We conclude that the imposition of a period of three years of suspension, 6 months to be served actively, and a larger monetary penalty is necessary in order to further our paramount obligation to protect the public health, safety and welfare. In this instance, the suspension of respondent's license and a $10,000 monetary penalty will serve both a punitive element - that is, to punish respondent for his behavior - and a deterrent effect, as it is intended to send a message to the community of licensees at large that alteration of documents - dishonesty in dealing with privileging and access to insurance panels, expose a licensee to significant penalty.

In deciding to impose a longer active period of suspension, we expressly reject respondent's contention that the two cases he cited dictate a different result. One was not even a case of the Board, and involved one act, not a series of events of dishonesty over several years. And we point out that our discretion to impose even the ultimate sanction of revocation of license has been upheld in

a case including findings of fundamental dishonesty of a licensee involving a plethora of acts (see, I/M/O Zahl), even though not involving patient care. We find respondent's actions of a lesser magnitude and thus determine that a period of suspension with 6 months of it to be served actively, to be sufficient.

We find an additional reason to reject counsel's argument that we be guided in meting out penalty in respondent's case by the sanctions in the two matters he cited. It is axiomatic that each case must be judged individually, on its own unique facts and circumstances. There is no cookie-cutter penalty imposed for all physicians who are found to have engaged in dishonesty or fraud, as not all cases involve the same degree of misconduct, and not all cases deserve equal sanction. For the reasons cited above, we find Dr. Mossavi's conduct, and it's repetition to the insurance company, at the investigative inquiry and at the OAL hearing to have been strikingly egregious without any mitigation presented to us, and thus find his case to be one that fully supports the sanctions we order herein.

COSTS

On the issue of costs, respondent was provided with a cost certification at the time of hearing and thus the record was held open and he was granted an additional 10 days to submit arguments. He did point out at the hearing that certain of the attorney time records had no detail to permit an examination of whether the time

spent was reasonable. We considered the application for costs and the response by Dr. Mossavi at our meeting of April 13, 2011.

The State's submission on costs included certifications and documents to support an application for investigative costs of $413.33, court reporting services/transcript costs for an investigative inquiry of respondent in August of 2007, a deposition of a trial witness, Dr. Suzanne Atkin on April 19, 2010, and the transcript of the proceedings at the Office of Administrative Law, all totaling $1,114.75. The State has also submitted certifications and timekeeping records in support of an application for $38,893.00 in attorneys fees. The total cost assessment sought was $40,421.08.

Respondent in his submission of March 16, 2011[4] did not object to the amount or calculations utilized as to investigative costs, court reporting fees/transcript costs, although making bald claims without argument that the statutes authorizing payment of costs and attorney's fees are unconstitutional. As to attorney's fees, he also argues that the State's billing records are incomplete, and that the number of hours spent are "outrageous and incredulous." Respondent also demanded to see the complete legal files of the Deputy Attorney General representing the State and original time sheets of all "Assistant Attorney Generals" working on the matter

[4]Although respondent's counsel, John Orlovsky, Esq., withdrew as counsel to respondent prior to consideration of the cost application at the Board meeting of April 13, 2011, he nonetheless requested that the Board consider the documents he submitted prior to the time of withdrawal.

to determine "reasonableness."[5] We have reviewed the costs sought in this matter and find the application for investigative costs and court reporting/transcript fees sufficiently detailed and the amount reasonable. We have also substantially reduced the amount requested for attorney's fees based on the lack of detail submitted and other factors. Our analysis follows.

In its submission seeking investigative costs, the State has submitted certifications of supervising investigator Richard Perry, as well as Daily Activity Reports which identify the precise activities performed, the amount of time spent in each activity, and the hourly rate charged for each investigative assignment in 2008 and 2010. The Daily Activity Reports and certifications document costs totaling $413.33, including a ten dollar ($10.00) witness fee.

We find the portion of the application for investigative costs supported by signed and detailed contemporaneous time records to be sufficient. We note that investigative time records are kept in the ordinary course of business by the Enforcement Bureau, and contain a detailed recitation of the investigative activities performed. Furthermore the overall amount of the investigative time expended (2 hours and 43 minutes) is minimal for activity of investigators involving service of documents and subpoenas and related functions.

[5]The Deputy filed a motion to quash the request for his complete file. Given our resolution of the cost application, we find it unnecessary to consider the Motion to Quash, and find no reason to consider the request of the respondent to peruse the file of the Deputy.

We have also considered and find that the rates charged, (from $116.80 to $123.69 per hour) to be reasonable, and take notice that investigative costs, approved many times in the past, are based on salaries, overhead and costs of state employees. Considering the important state interest to be vindicated, protection of the public, the investigative costs imposed are certainly reasonable. Similarly, the court reporting/transcript fees are documented by invoices and appear necessary and reasonable to this proceeding.

The Attorney General's certification in this matter extensively documented the time of the attorney expended in these proceedings, detailing fees of DAG Lim from May 2, 2008 to March 7, 2010 with attachments. The Attorney General sought a total of $37,368.00 in counsel fees for 276.8 hours by DAG Lim that had been incurred in the course of the proceedings regarding respondent. The Attorney General's certification was supported by the time sheets of DAG Lim, DAG Puteska and DAG Alan Niedz, both assigned to the matter previously. We have determined to reduce the fee amount for the services of previous Deputy Attorneys General who worked on the same matter. We have also determined to reduce the fee award for all time entries continuing a code (such as "CCR" for correspondence) but with no detail of the work performed nor means of identifying the work from the context of the rest of the application. Therefore we have reduced the 276 hours request by 61 hours for time entries with no detail, and 15 hours for services of previous attorneys,

resulting in fees awarded for 200 hours of time.

Although the rate of compensation was not challenged the application included information derived from a memorandum by Nancy Kaplan, then Acting Director of the Department of Law and Public Safety detailing the uniform rate of compensation for the purpose of recovery of attorney fees established in 1999 and amended in 2005, setting the hourly rate of a DAG with less than five years of legal experience at $135.00 per hour. We are satisfied that the record adequately details the tasks performed for the remaining 200 hours of entries and the amount of time spent on each by the Deputy Attorney General (to include investigation, research, drafting, appearances, settlement discussions, depositions, motions, briefs, trial preparation and preparation for hearing before the Board, trial presentation, and post hearing brief). We are satisfied the tasks performed, while time-consuming, needed to be performed and that in each instance the time spent was reasonable.[6]

The rate charged by the Division of Law of $135.00 for a Deputy Attorney General with less than five (5) years of experience has been approved in prior litigated matters and appears to be well

[6]For example, respondent argues in one instance that 26 hours was entered for preparation of the complaint in this matter. However, a review of the extensive time entries reveals that 16.8 hours were listed, not only for the drafting, but for such activities as reviewing the file, research, discussions with supervisors and revisions following such discussions - in other words development of the case. This does not appear excessive for the development of such a case by an attorney with relatively few years of experience.

below the community standard. Moreover, we find the certification attached to the billings to be sufficient. We note that no fees have been sought for any time after March 7, 2011, following which oral argument on exceptions and additional transcript costs and motions were incurred.

We find the application to be sufficiently detailed, with the reductions we have applied, to permit our conclusion that the amount of time spent on each activity, and the overall fees being awarded, are objectively reasonable as well. (See, Poritz v. Stang, 288 N.J. Super 217 (App. Div. 1996). We find the Attorney General has adequately documented the legal work we have found necessary to advance the prosecution of this case. We are thus satisfied that the fees we are awarding are reasonable especially when viewed in the context of the seriousness of the action maintained against respondent. We further find that respondent has provided no documentation of any inability to pay such costs.

Costs are traditionally imposed pursuant to N.J.S.A. 45:1-25 so as not to pass the costs of proceeding onto licensees who support Board activities through licensing fees. Were we not to assess costs against respondent, those costs would instead need to be borne by the entire licensee population which ultimately pays all Board expenses within licensure fees), and we do not perceive that to be an equitable result in this case. In summary, sufficient documentation has been submitted to support imposition of the

following costs:

Investigative Inquiry/Deposition and OAL transcripts	$	1,114.75
Investigative costs	$	413.33
Attorneys fees	$	27,000.00
Total costs:	$	28,528.08

THEREFORE as orally ordered by the Board on the record on March 9, 2011 and April 13, 2011;

IT IS ON THIS 23RD **DAY OF SEPTEMBER 2011**

ORDERED THAT:

1. The license of respondent Ahmad Mossavi, M.D. to practice medicine and surgery in the State of New Jersey is hereby suspended for a period of three (3) years. The first six (6) months of the suspension are to be served as a period of active suspension with an effective date and credit on the active suspension as provided in paragraph 6 below. [7] The remainder shall be stayed and served as a period of probation.

2. Prior to reinstatement of license and before resuming practice on probation, respondent shall appear before a Committee of the Board and then demonstrate that he has complied with the conditions of this Order, and that he is fit and competent to resume

[7] A request was submitted on respondent's behalf for credit toward the active suspension of his license for time he claimed to have ceased practicing medicine after the Board hearing. The request was first considered by a Committee of the Board on June 23, 2011. At a later time the Board approved respondent's request with the conditions outlined in paragraph 6.

the practice of medicine.

3. Prior to reinstatement of license, respondent shall provide proof that he has fully attended and successfully completed an ethics course pre-approved by the Board.

4. Respondent is hereby assessed a civil penalty in the amount of $10,000.

5. Respondent is assessed costs of this action, in an aggregate amount of $28,528.08.

6. The period of active suspension shall be considered to commence on the date of service of this Order and continue for 6 months thereafter, unless respondent provides documentation and demonstrates to the satisfaction of the Board that he ceased the practice of medicine and/or surgery, as of June 23, 2011, and has not practiced in New Jersey or any other State or jurisdiction since that time, in which event the suspension shall be considered to have begun on that date and shall continue through and including December 22, 2011.

7. Respondent shall pay the aggregate penalties and costs assessed herein of $38,528.08 in full no later than thirty (30) days from the date of filing of this Order unless he requests prior to that date to pay in equal monthly installments over the three year period of suspension. Should respondent request to pay in monthly installments, the first payment shall be due on or before October 23, 2011, and the remaining payments shall thereafter be due on or

before the 23rd day of each ensuing month (i.e., November 23, 2011, December 23, 2011, etc.). Provided respondent makes timely payment of each installment, the Board shall waive the imposition of any interest that otherwise will be added to the assessments ordered herein.

8. Respondent shall comply with the Directives applicable to disciplined licensees of the Board, whether or not attached hereto.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

By: _____
Paul T. Jordan, M.D.,
Board President

EXHIBITS

For Petitioner:

P-1	Deposition of Dr. Atkin
P-2	Transcript of testimony from Respondent
P-3	April 3, 2006 letter from Dr. Atkin to Respondent
P-4	Letter from May 1, 2006 letter from Ms. Acevedo-Hodovance
*P-5	Transcript of testimony of Respondent (excerpt)

For Respondent:

R-1	April 6, 2005 letter from Dr. Atkin to Respondent
R-2	June 2, 2006 letter from Dr. Johnson to Respondent
R-3	June 2, 2006 letter from Dr. Johnson to Respondent
R-4	Undated letter from Dr. Raina to Respondent
R-5	Hospital Policy 3:8-1 and 3:8-2
R-6	Transcript of testimony from Respondent

*P-5 was accepted by ALJ Stein and considered by him in the Initial Decision. P-5 is an excerpt of the transcript of testimony respondent submitted with the post-hearing brief and was omitted from the exhibit list apparently in error as it was clearly considered to be a part of the record by the ALJ. P-2 and R-6 are also copies of the same transcript.

DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE HAS BEEN ACCEPTED

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice was conducted. At the end of the three month period, the licensee shall file with the Board the name and telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or asks that record be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who is the subject of any Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a) Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and Inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for an impaired practitioner may include, but is not limited to, practitioner cooperation in providing releases permitting unrestricted access to records and other information to the extent permitted by law from any treatment facility, other treating practitioner, support group or other individual/facility involved in the education, treatment, monitoring or oversight of the practitioner, or maintained by a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioner shall fully cooperate by responding to a demand for breath, blood, urine or other sample in a timely manner and providing the designated sample.

NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

(1) Which revokes or suspends (or otherwise restricts) a license,
(2) Which censures, reprimands or places on probation,
(3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license(and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A.45:9-19.13, if the Board refuses to issue, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.